

1 A. Yes.

2 Q. I guess? Okay.

3 A. Yeah. Anything forklift related in this
4 entire file is going to be applied -- is in the
5 realm of Jenkins & Stiles who's -- once again, this
6 gentleman, the deceased gentleman's job was simply
7 to drive, drop off and then drive wherever his next
8 location was. And there were no -- no training, no
9 documents, no -- there wasn't anything provided or
10 uncovered that would identify anything in the realm
11 of forklifts or any other safety element or program.

12 Q. That's with regard to the deceased and to
13 ClearShine?

14 A. ClearShine. Yes.

15 Q. Okay.

16 A. A request was made to the widow for
17 documentation related to its inspection. No
18 material was ever provided.

19 Q. If you're looking at page 13, there's a box
20 for -- on the top where it says, "Management
21 Participation," Number 4 is marked. Can you read
22 Number 4 for me that's marked.

23 A. "Management provides positive safety and
24 health leadership and is committed to providing
25 necessary resources for safety program, and

1 on-site outside of these two companies.

2 Ms. Redmond, which is Jenkins & Stiles' safety and
3 health representative, and I don't -- as far as
4 measurements and things of that nature would have
5 been provided and documented by me or Mr. Swift
6 on-site.

7 Q. Is that typical of your investigations? That
8 you would gather facts from different sources?

9 A. Yes. Employee interviews is one of the main
10 things of any inspection that OSHA and/or TOSHA
11 conducts.

12 Q. Do you have any reason to believe that anyone
13 who provided you information as part of your
14 investigation was in any way being untruthful?

15 MR. WRIGHT: Object to the form.

16 Q. You can answer.

17 A. I have no reason to believe that. No.

18 Q. Any reason to believe they were trying to
19 hide anything from you.

20 A. No.

21 Q. Do you think anyone you were speaking to had
22 any trouble -- or that you were getting information
23 from was having any trouble remembering the facts of
24 this accident at the time you spoke with them?

25 MR. WRIGHT: Object to the form.

1 A. No. I think there could have been some
2 emotional play in certain instances due to the
3 severity of the situation, but based off the
4 information I had and correlated with the
5 information that we were able to document on-site,
6 nothing seemed off.

7 Q. Okay. Do you think that any of the people
8 you spoke with -- do you think that all of the
9 people you spoke with about this incident, either in
10 person or on the phone or communicated with via
11 email or any other sort of writing -- that they were
12 all being accurate and truthful?

13 MR. WRIGHT: Object to the form.

14 A. Accurate as they could be and truthful as to
15 what they knew as the truth. Yes.

16 One thing I've learned doing that job and
17 multiple fatalities is people's mindsets isn't
18 necessarily as clear as it would be if they weren't
19 dealing with such a traumatic event that just
20 occurred.

21 Q. If we look on page 22 -- if you could read to
22 me the section under Findings. About five lines
23 down it says, "Through witness statements." You see
24 where it begins right there?

25 A. Uh-huh.

1 securement strap, in the vicinity of the securement
2 strap, that led us to believe -- also the condition
3 of the trailer -- it was not a new, you know,
4 trailer by any means. And some of this is strictly
5 based off the lay of the land: The parking lot and
6 the condition of the trailer. It is believed that,
7 as I stated, that the weight transfer is what
8 initiated the bundle to fall. You're removing
9 almost 3,500 pounds from a trailer. That's going to
10 cause that trailer to rock, shift, move. In this
11 case, once again, I said that trailer was -- it
12 could have used some maintenance. So it is believed
13 that the trailer shifted.

14 Q. I guess that leads me to the next page, on
15 page 23. If you could read to me what your
16 conclusions were.

17 A. "Through this investigation, the factors that
18 may have contributed to the death of the employee
19 include but are not limited to the following:
20 Unstrapping all material prior to the lift, leaving
21 it unstable; worn components of trailer led to
22 movement when weight was removed; Mr. McKinney
23 proceeded to a hazardous area after identifying he
24 was 'clear' to lift operator."

25 Q. So in this finding, the third one is

1 "Mr. McKinney proceeded to a hazardous area after
2 identifying he was 'clear' to lift operator"?

3 A. Yes.

4 Q. That's one of your conclusions based on your
5 investigation?

6 A. Based off witness statements. Yes.

7 Q. Okay. And --

8 A. And the location which he was found.

9 Q. So if you could, I guess, go into a little
10 bit more detail about that conclusion for me.

11 A. So as the witness statements identified
12 Mr. Kennedy, the forklift -- Mr. Kennedy, the
13 forklift operator was proceeding to do a lift. In
14 that process he hollered to Mr. McKinney, asked if
15 he was clear. Mr. McKinney identified that he was.
16 He was near the gooseneck of the trailer whenever
17 that communication was made, away from the area of
18 the material. And within a few seconds after that,
19 the lift was initiated and ultimately the incident
20 occurred. He was not in the area of the gooseneck
21 where they found him, and he was in an area that was
22 in the hazardous area because of the unstrapped
23 material. He was not clear as he just stated to the
24 forklift operator that he was.

25 Q. Is that the sort of thing -- is that a

1 dangerous thing for someone to do in that situation?

2 A. Absolutely.

3 Q. Why is that?

4 A. Because you're in -- you're in an area in
5 which material is unstable. It's being maneuvered,
6 moved, loaded, and you're exposing yourself to the
7 hazard. That's the whole purpose of the verbal
8 communication from an operator to anybody in that
9 area, to ask and make sure they're clear, to ensure
10 that they're not in the hazardous area.

11 Q. Do you believe that the operator in this
12 situation, Mr. McKinney, that he verbally
13 communicated with Mr. -- sorry. Mr. Kennedy was the
14 operator of the forklift. Do you believe that he
15 did communicate with the truck driver, Mr. McKinney?

16 A. Yes, I do.

17 MR. WRIGHT: Object to the form.

18 A. There's a witness that was able to support
19 that statement that was not part of the lift, was
20 not part of just -- another worker in the building
21 doing another job. He was able to provide
22 information that stated he did hear him holler
23 "clear" just before the incident occurred.

24 Q. So based on your investigation, do you think
25 that the forklift operator, Mr. Kennedy, did

1 anything wrong?

2 A. No.

3 Q. Do you think that his employer, Jenkins &
4 Stiles, did anything wrong in this situation?

5 A. No.

6 Q. After investigation do you think that the
7 deceased man, Mr. McKinney, did anything wrong in
8 this situation?

9 A. Yes.

10 Q. And what is that?

11 A. That is he failed to stay in the area that
12 was clear of the zone that he just identified to the
13 forklift. In my opinion -- this can't be
14 confirmed -- but due to his location and the
15 condition of his straps, I believe that he was in a
16 rush, trying to get his straps rolled up on his
17 trailer so that as soon as that material was
18 unloaded, he could proceed to wherever he was moving
19 towards. And that is why -- I believe his mentality
20 was that the forklift operator was on the eastern
21 side. He was on the western side that's the hazard.
22 So therefore, he tried to, you know, just be a
23 diligent worker and get ahead for himself and get
24 the straps wound up. Unfortunately, that put him in
25 a danger zone in which he had just identified he was

1 clear of.

2 Q. It's our understanding that Mr. McKinney, the
3 truck driver, had been delayed overnight because of
4 an inspection by the DOT?

5 A. That is correct.

6 Q. Okay. You are aware of that?

7 A. Yes.

8 Q. How did you find out about that?

9 A. Jenkins & Stiles provided that information
10 through the opening conference and ultimately the
11 investigation as a whole. You know, kind of getting
12 some of the base knowledge of what this gentleman
13 was doing there and what his job title was because
14 we were -- you know, obviously he was not there. I
15 didn't know -- they identified he was there to
16 deliver the materials and that he was supposed to be
17 there the day prior. Due to a failed DOT
18 inspection, his truck and ultimately the trailer as
19 well were flagged, and he was not allowed to leave
20 until -- I don't remember what the issue was, but he
21 corrected the problem and then ultimately did show
22 up a day late because of his issues.

23 Q. And did you -- you got that information from
24 Jenkins & Stiles, or did you have any other source
25 of information on that?

1 Q. Again, try to wait till I'm done with my
2 question before you answer it. It helps out the
3 court reporter, but also you never know if my
4 question's going to take a turn toward the end.

5 Do you have any reason to believe that
6 Mr. Kennedy was being untruthful at the time you
7 were speaking to him?

8 MR. WRIGHT: Object to the form.

9 A. No.

10 Q. Do you think he was hiding anything from you?

11 A. I think he was emotionally distraught, but as
12 far as hiding anything, no.

13 Q. Do you think that his emotional condition had
14 any effect on the accuracy of the information he was
15 giving?

16 A. No, because he feels like he killed someone.
17 The guilt would not allow him to be untruthful,
18 based on what I witnessed that day.

19 Q. Do you think that anybody -- any person had
20 told Mr. Kennedy what to say to you or had in any
21 way coached him or influenced his statement?

22 MR. WRIGHT: Object to the form.

23 A. No.

24 Q. If you look on pages 27 to 58 -- that's just
25 a couple dozen photographs. I think at the top of

1 each page it's titled "Photo Mounting Sheet."

2 A. Yes.

3 Q. Is that correct? It's 27 through 58?

4 A. Yes. That's correct.

5 Q. Who took these photos?

6 A. Probably would have been both me and Joseph.

7 Q. And who compiled these into this report?

8 A. I ultimately compiled them into the report.

9 If you look back at the index on page --

10 Q. -- 66?

11 A. -- 66.

12 Q. I believe -- well, that's additional
13 information. Sorry.

14 A. Yeah. Right here, page 4 -- or 6 -- if you
15 look at 5/18/2021, approximately one month -- a
16 little bit over a month -- Joseph Swift left
17 Tennessee OSHA, and I was left with this case file
18 to compile on my own.

19 Q. I see. So I understand, part of your --
20 well, I guess if you look ahead to page 66, like I
21 just talked about, we have this Index of Additional
22 Information. So I understand, you did get
23 information from Jenkins & Stiles. Is that correct?

24 A. Yes.

25 Q. What did they end up sending to you?

1 A. Documentation of their forklift training and
2 other safety-related documents, some may be relevant
3 and some not, but a lot of times when we make
4 requests to companies during an investigation, they
5 send pretty much all safety-related documents that
6 they have that at least correspond with whatever
7 situation we're dealing with.

8 Q. Did you get everything from them that you
9 requested?

10 A. Yes. I've worked with Ms. Redmond on
11 multiple investigations. She knows what TOSHA does
12 and how they operate and what they need and when
13 they need it, and she stays on top of it.

14 Q. Is Ms. Redmond an employee of Jenkins &
15 Stiles?

16 A. No.

17 Q. Who does she work for?

18 A. An insurance company. I couldn't tell you
19 the name of them.

20 Q. Okay. I think I actually have it. I think
21 she -- you mentioned she was one of the people who
22 reported it.

23 A. Yeah.

24 Q. Page 15 has her on the Site Contact. Scott
25 Insurance Company.

1 A. No issues. You can always do better.

2 Q. What do you mean by that?

3 A. I mean, it's kind of the mentality in the
4 safety field. You know, people think that you've
5 done enough because you've provided people training,
6 but there's always more you can do. A lot of people
7 do just what OSHA requires, what's in the
8 regulations. Well, what people don't -- a lot of
9 people don't realize is OSHA regulations are the
10 bare minimum. There's -- you can do a lot more to
11 keep individuals safe above OSHA regulations.

12 Q. If someone is, for example, just doing --
13 following the OSHA regulations, would you say they
14 are doing -- taking the appropriate actions?

15 A. Yes.

16 Q. In your opinion, based on your review of all
17 the information related to this incident, do you
18 think Jenkins & Stiles maintained a culture of
19 safety?

20 MR. WRIGHT: Object to the form.

21 A. Yes.

22 Q. When we say "culture of safety," is that a
23 term of art you use in your business? Your
24 industry?

25 A. Yes.

1 Q. What does that mean?

2 A. That means that safety is embraced by not
3 only the safety coordinator, safety manager,
4 whatever the title may be, but by each and every
5 employee of the company from the top down. It is a
6 way of life where safety is involved in every aspect
7 of what they do. It's planned for. You know, the
8 materials are provided to address it. You know, the
9 equipment's provided to -- they're positive-minded
10 in relation to safety. And not every place is like
11 that.

12 I've ran across Jenkins & Stiles multiple
13 times on multiple sites, and I've never identified
14 any issue with hazard within their arena.

15 Q. So based on your investigation as a whole
16 into this matter, do you think that the action of
17 the truck driver -- the actions of the truck driver,
18 Mr. McKinney, were safe and appropriate?

19 A. No.

20 Q. What leads you to that conclusion?

21 A. First and foremost, I think he was rushed and
22 he was stressed based off the events that led up to
23 that point, trying to get that delivery to where it
24 was needed. I think the stress level -- while that
25 sounds like it's not that big a deal, but as we all

1 do remember in this case that they were having to
2 build it not in the typical order that they would
3 because of material. But outside of that, I
4 don't -- I don't have any information. And it
5 wasn't just the material that Mr. McKinney was
6 delivering. It was other aspects of that building,
7 that construction site.

8 Q. And that was pretty typical -- I mean, I
9 guess that's not atypical for construction at any
10 time but particularly during the pandemic?

11 A. Everybody was dealing with it, yeah. It was
12 across the board.

13 Q. So based on your review of this incident and
14 communications with ClearShine Logistics, with
15 Mr. McKinney's widow, do you think that ClearShine
16 Logistics maintained a culture of safety?

17 A. No.

18 Q. What leads you to that conclusion?

19 A. I just believe that due to the type of
20 business it was, that it's not -- in the industry as
21 a whole, not even just ClearShine, it's not typical
22 that that is a culture of safety.

23 Like I said, their hazards are minimal that
24 they're exposed to and pretty much, you know, some
25 basic training and the hi-viz vest, you know,

1 vehicular traffic is going to be their biggest
2 hazard. It just doesn't appear, based off my
3 knowledge and what was requested and what was
4 identified on-site, that there was any reason to
5 believe that safety was the core component of that
6 company unless you count -- you know, I think -- I
7 think the safety idea was more relevant, like I
8 said, to roadway safety. I think that could have
9 been more prevalent, you know, as far as roadway
10 hazards, breakdowns, because that's what they
11 typically dealt with.

12 As in this situation, they're not forklift
13 operators. They're not doing -- they drive to a
14 location. They park. They let someone unload the
15 trailer. They go get another load, but the lack of
16 understanding of the hazards and material, loading
17 and unloading, I think showed the lack of a safety
18 culture and understanding that that was a hazard
19 they were exposed to possibly on a daily basis
20 depending on what their delivery schedule was.

21 Q. In reaching your conclusions in this matter,
22 did you refer to any -- other than the documents
23 that we've talked about already that are contained
24 in the file, did you refer to any rules,
25 regulations, standards, guidelines, any other

1 specific manuals as part of your -- reaching your
2 conclusions?

3 A. No.

4 Q. The conclusions you've reached -- that you
5 reached in your investigation, are they based on
6 your education, training, experience and your job
7 function at TOSHA as an area safety supervisor?

8 A. Yes.

9 Q. I want to talk about -- look on page 59 of
10 this file. This is another witness statement.

11 A. 50 --

12 Q. 59. This is, I believe, the witness
13 statement of Robert Hutton. Is that correct?

14 A. Yes.

15 Q. Whose handwriting is on this paper?

16 A. This would be mine.

17 Q. I think actually on page -- yeah -- 61, it
18 says, "The above statement was written by Micheal
19 Johnson." So you were the one who actually wrote
20 this witness statement?

21 A. Yes.

22 Q. Who conducted the interview of Mr. Hutton?

23 A. Myself.

24 Q. Was it just you or was Mr. Swift with you?

25 A. Mr. Swift would have been with me.

1 Q. Okay. Was this done in person?

2 A. Yes.

3 Q. And it's dated on page 59 -- at the top it's
4 dated 4/19/2021?

5 A. Yeah. It did occur -- I said, "Yes"
6 initially. I'm trying to remember in this
7 particular case -- which it should. It's been a
8 while since I've looked at these. I'm trying to
9 recall if it was in person or over the phone.

10 Q. Did you ever go back to the construction
11 site?

12 A. We did return back to the site one time, yes.
13 And I'm thinking that's when it occurred. Yeah, it
14 was -- it's starting to come back to me now. We
15 went back to conduct a closing conference, which is
16 ultimately kind of how we tie up an investigation,
17 at least on-site, and let them know kind of what our
18 initial conclusions are as far as violations, maybe
19 gather any other information we need while we're
20 there and go over some other pertinent legal stuff
21 if we have to.

22 In this case we did arrange for this
23 gentleman to be there at that time so we could
24 conduct an interview with him prior to our closing
25 conference.

1 Q. So the closing conference is, I guess, for
2 that part of your investigation, maybe an on-site,
3 on-scene part of your investigation? Is that what
4 you're saying?

5 A. Well, it's -- closing conference is what sums
6 up what we've identified during the course of the
7 investigation. So if we identified any hazards, any
8 violation, who they're connected to, so forth, we
9 would have went over all that information. And as
10 you looked at -- let's see. We did have a brief
11 closing conference initially -- whenever we leave
12 the site, just to let them know what we're looking
13 at, and depending -- like, in a situation like this,
14 a lot of time we have to await safety documentation,
15 records, things from the first responders, things of
16 that nature, so we can't get all our information.
17 We usually do a secondary closing that ultimately
18 identifies anything outside of the first closing
19 that we've come to a conclusion on.

20 In this case we scheduled this interview
21 right before we conducted our closing, which in this
22 particular case, the closing wasn't a typical
23 closing because there were no violations that were
24 being recommended.

25 Q. So if you could read to me the statement that

1 you wrote here for Mr. Hutton.

2 A. "I was sitting in my truck taking a break.
3 They were unloading the trailer. I was looking at
4 my phone and had the door open. I know they had
5 already unloaded identical material because I saw it
6 stacked near the area. I heard someone say,
7 'Curtis, you clear? Go.' I heard the lift rev a
8 little and then I heard a crash. I looked at the
9 area and moved to a better line of sight and saw him
10 under the material. He was blue-looking, so I
11 called 911. Everyone was clear. Curtis had a good
12 visual of the work area."

13 I want to clarify. This goes into questions
14 that were asked of him, not just him just speaking
15 that way.

16 "I called" -- "everyone was clear. Curtis
17 had a good visual of the work area. I didn't see
18 anything that appeared to be unsafe. They were
19 communicating and the area was clear of people. I'm
20 not sure why he would tell him he was clear when he
21 wasn't clear."

22 Q. So you're not just, I guess, writing down
23 verbatim what he says as he's saying it?

24 A. The initial part would have been, but there
25 should have been a break in there -- that's on me --

1 that identifies questions. But at the end where I
2 say, "'So I called 911,'" that would have been his
3 original statement about what happened, and then
4 from that point on it would have been based off
5 questions that were asked of him.

6 Q. Okay. And then on page 61 in the middle
7 there, it says, "The above statement was written by
8 Micheal Johnson. It has been read to me and is true
9 and correct."

10 Does that mean that you or Mr. Swift read his
11 statement out loud to him and he didn't actually
12 look at it himself to read it?

13 A. Yes. Every witness statement we do, we give
14 either the option they can read over it theirselves or
15 we can read it back to them to ensure accuracy
16 before we sign and ultimately circle whichever one
17 was done.

18 Q. Okay. And whose signatures are these on page
19 61?

20 A. That would have been -- "Witnessed by" would
21 have been mine and then Robert Hutton's signature
22 there.

23 Q. So this second one, "Witnessed by," that's
24 your signature?

25 A. Yes.

1 Q. So you watched him sign this document?

2 A. Yes.

3 Q. Does the witness statement accurately state
4 what Mr. Hutton said to you and Mr. Swift?

5 A. Yes.

6 Q. So this witness statement was written while
7 he was giving his statement to you and Mr. Swift and
8 then signed immediately afterwards?

9 A. Everything was done right on-site --

10 Q. Okay.

11 A. -- at the same time.

12 Q. Do you have any reason to believe that
13 Mr. Hutton was being untruthful in any way in what
14 he was saying?

15 MR. WRIGHT: Object to the form.

16 A. No. He didn't work for any of the companies
17 involved in the situation. I wouldn't see why he
18 would want to be or need to be.

19 Q. Was he on-site on the 15th when you conducted
20 your initial inspection?

21 A. No, not when we conducted the initial
22 inspection because just as many fatalities,
23 typically when one occurs on-site, most of the time
24 most individuals are sent home due to the nature of
25 the event that's occurred there. It was identified

1 that he was a witness and ultimately his information
2 was gathered, and that's why at a later time it was
3 scheduled to speak with him.

4 Q. So do you think that anybody had, I guess,
5 coached him on what to say to any investigator of
6 any kind?

7 MR. WRIGHT: Object to the form.

8 A. Not to my knowledge.

9 Q. Did he give you any indication that he had
10 any trouble remembering the incident itself?

11 A. No.

12 Q. Do you think he left anything out of his
13 statement or was -- I guess, any details were
14 missing from his statement?

15 A. Nothing past the point after the incident. A
16 lot of times when we request information, we're
17 asking these witnesses in regards to a fatality,
18 they'll want to go into more detail as far as what
19 happened after first responders arrived. And in
20 this particular case, as most of them, that's not
21 really relevant to our investigation unless some
22 piece of material was thrown away. Or, you know,
23 there could be a situation where it could be, but in
24 this case there's no reason to believe that we
25 needed any information once first responders

1 marks if you had access to --

2 A. The bottom or top one?

3 Q. The bottom part of it.

4 A. Yeah. I mean, because it might possibly show
5 forks that had penetrated -- in this case these were
6 wrapped in a particular way. So I mean, yeah, it
7 could.

8 Q. So it could leave a mark. Is that right?

9 A. It could. Yeah.

10 Q. And you weren't allowed to look at that
11 because, as we saw in Exhibit 4, those bundles were
12 stacked on top of each other. Is that right?

13 A. That is right.

14 MR. THOMPSON: Object to form.

15 Q. And that could change your conclusions you
16 come to, correct?

17 A. Possibly. Yes.

18 Q. Okay. I want to hand you another photograph.
19 You see the bottom of one of the bundles that's
20 depicted in this photograph I just handed you?

21 A. The mud. Yeah.

22 Q. Okay. What is that?

23 A. It appears to be forks, but the reason that
24 we ruled this out is they moved the bundles after
25 the event, so those marks could have been present

1 from the cleanup, from the EMS crew that moved one
2 off of Mr. McKinney.

3 Q. Okay.

4 A. I don't disagree that that is -- appears to
5 be, you know, marks from the fork of the forklift,
6 but whether or not it occurred during that time, in
7 my opinion, I would lean to say no because it's not
8 poking it. It's mud. And my guess is, based off
9 the location that these were, that mud contributed
10 from this area over here because this entire area
11 was gravel.

12 Q. Let me ask this: Have you ever seen that
13 photograph before?

14 A. I believe so. It should have been in the
15 police report, but it's been a while. I can't
16 say -- I can't recall a hundred percent.

17 Q. I don't see it listed in your materials that
18 were reviewed in the inspection that you --

19 A. It would not be in there.

20 Q. Okay. Because it said, "all materials
21 reviewed," and I don't see that photograph listed.

22 A. These -- if this photo was reviewed, it would
23 have been in the police report, and when we input
24 the police report -- our version of the police
25 report, the photos are redacted from that. The

1 why I came to try to help people and not deal with
2 this stuff. I'll be honest because there is a
3 reality that you can't trust everyone and people are
4 doing things they shouldn't, but that goes across
5 the board to anybody regardless of the company. But
6 yeah. I mean, it frustrates me, but what am I going
7 to do?

8 Q. Okay.

9 A. It frustrates me more that I didn't request
10 that they move the bundles.

11 Q. It frustrates you more that what?

12 A. I didn't request that they move them so I
13 could look at them closer.

14 Q. Well, you relied on them to be honest and
15 truthful with you, didn't you?

16 MR. THOMPSON: Object to the form.

17 A. I wouldn't say that. I relied -- I relied on
18 them and the information that was present at the
19 site to do my own investigation, but as far as --
20 you know, every investigation I've ever done, I
21 don't ever assume anyone's being truthful with me.

22 Q. Okay.

23 A. I'm a -- you're an OSHA compliance officer.
24 That's not something you really expect out of
25 anybody. I'll just be honest. It frustrates me

1 personally because I hold myself to a higher
2 standard, and it appears that I failed to look at
3 something I should have.

4 Q. But in your defense, you would have had to
5 get them to lift that one bundle off of the other
6 one in order for you to be able to look at it,
7 right?

8 MR. THOMPSON: Object to form.

9 A. Yes. You're correct.

10 Q. Okay.

11 A. Because if I recall correctly, this is the
12 bundle that had blood on it.

13 Q. You're pointing to the bottom one in
14 Exhibit 9, correct?

15 A. Yes.

16 Q. Okay. And that brings me to my next question
17 which was: Have you had the benefit of seeing any
18 of the photographs to show how the forklift operator
19 attempted to lift up the bundle when Mr. McKinney
20 was under it?

21 A. Like an example photo? Like a re-creation?

22 Q. I think there's some photos that show when
23 the fork was used to lift up this area where the
24 blood is to get it off of Mr. McKinney. Because
25 obviously it was on him, right?

1 when it comes to a construction site. Is that
2 correct?

3 A. Yes.

4 Q. I guess the safest thing would be just to
5 never do any construction at all, right?

6 A. Yes.

7 Q. And that at any construction site and any
8 different situation -- you may have at a
9 construction site that it depends on all the
10 circumstances involved: All the personnel on all
11 the equipment; all the weather conditions; many,
12 many different possible factors. Is that right?

13 A. That's correct.

14 Q. Is it unsafe, such as in a situation like
15 this, if someone gives an "all clear" to a forklift
16 operator and then moves into an unsafe area after
17 they lose sight of the forklift operator? Is that
18 unsafe?

19 A. Absolutely.

20 Q. Mr. Wright talked earlier about whether the
21 witness, Mr. Hutton, could be heard. Is it possible
22 for people to holler loud enough on a construction
23 site that people some distance away could hear them?

24 MR. WRIGHT: Object to the form.

25 A. Absolutely. Most of them are very loud

1 Q. And in addition to Mr. Kennedy explaining the
2 interaction between him and Mr. McKinney, you also
3 have Mr. Hutton's statement about what he heard that
4 day, right?

5 A. Yes. That's correct.

6 Q. And he is, as far as you know, an independent
7 witness with no connection to any of these parties
8 except he was a subcontractor on-site?

9 A. That's correct. He was not an employee of
10 Jenkins & Stiles. He was not an employee of
11 ClearShine Logistics. He was an employee of
12 Chattanooga Fire and just happened to be on-site
13 with those few individuals that were working to
14 install the sprinklers. And this particular moment
15 the incident happened, he was taking a break.

16 Q. Is there only -- is there only one -- in a
17 situation like this where you're trying to unload
18 materials from a trailer, is there only one safe way
19 to do that?

20 A. I wouldn't say that. Once again, it comes
21 greatly down to what type of material is being
22 unloaded; what type of forklift you're using; what
23 type of trailer; the ground, you know, if you're in
24 an area -- maybe you're on a busy street, downtown.
25 You've got sidewalks, pedestrians. I mean, it's